

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
CANTON DIVISION

IN THE MATTER OF:

CASE NO. 16-62225

Chapter 12

ROBERT EUGENE WELLING
and KATHY SUE WELLING,

Judge Russ Kendig

Debtors.

**SEED CONSULTANTS, INC.'S MOTION TO ENFORCE
DEBTORS' PLAN OF REORGANIZATION**

Seed Consultants, Incorporated (“SCI”) by its undersigned counsel, in the above-captioned proceeding, respectfully files this Motion seeking entry of an order substantially in the form of Exhibit A (the “Order”), directing the Debtors, Robert Eugene Welling and Kathy Sue Welling (collectively, the “Debtors”), to comply with the terms of the Debtors’ Plan of Reorganization, dated January 23, 2017 (the “Plan”). In support of this Motion, SCI states as follows:

1. The Debtors, SCI, and Andrew Suhar, Trustee (the “Trustee”) agreed and stipulated that SCI has an allowed general unsecured claim against the Debtors in the amount of \$55,000 (the “SCI Claim”). *Stipulation and Agreed Order on Debtor’s Objection to the Claim of Seed Consultants, Inc.* [Docket No. 91] (the “Stipulation”).

2. Section 5.06 of the Plan provides that Class 6 claims (claims of unsecured creditors) “will be paid in annual payments equal to one-fourth (1/4) of the allowed amount of their claims without interest commencing January 15, 2018.” As such, the Plan requires the Debtors to pay to SCI four annual payments of \$13,750, representing one-fourth of the SCI Claim (\$55,000). As of the date of this Motion, the Debtors have only paid \$9,109.74 to SCI on

the SCI Claim. The balance of the first installment due on the SCI Claim (\$4,640.26) remains unpaid.

3. No amounts were to be deducted from the four annual installments of the SCI Claim. Pursuant to Section 6.01 of the Plan, the Debtors are required to “pay such sums to the Trustee as are necessary to effectuate the terms of this plan.” Payment of the Trustee’s fee is the Debtors’ responsibility, in addition to payments under Section 5 of the Plan. Prior to executing the Stipulation, the Debtors’ counsel confirmed to SCI’s counsel that (i) the Plan required that SCI receive payment of one-fourth of the SCI Claim, and (ii) the Debtors were required to pay the Trustee’s fees.

4. Due to the Debtors’ failure to pay the full amount of the SCI Claim as and when due, the Debtors are in default under the Plan.

5. SCI reserves all rights to the SCI Claim and the full amount of the payments to be made thereunder, including the right to seek dismissal of this bankruptcy proceeding pursuant to 11 U.S.C. § 1208(c)(6) or any other applicable law.

6. This Court retained jurisdiction over this matter pursuant to Article X of the Plan.

WHEREFORE, SCI requests the entry of an Order (i) directing the Debtors to pay to SCI the amount of \$4,640.26 within ten days of entry of the Order and to pay to SCI the full amount of future installment payments (\$13,750) when due under the Plan, (ii) providing that SCI’s receipt of partial payments on the SCI Claim is without prejudice to SCI’s right to receive the full amount of the SCI Claim under the Plan or to seek dismissal of this bankruptcy proceeding, and (iii) granting all other just and proper relief.

Respectfully submitted,

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s/ Kevin J. Mitchell

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Attorney for Seed Consultants, Incorporated

CERTIFICATE OF SERVICE

I hereby certify that on October 10, 2018, a copy of the foregoing pleading was filed electronically with the United States Bankruptcy Court for the Northern District of Ohio Canton Division and was served via the CM/ECF system on the following:

Steven L. Diller on behalf of Robert Eugene and Kathy Sue Welling
steven@drlawllc.com

Eric R. Neuman on behalf of Robert Eugene and Kathy Sue Welling
eric@drlawllc.com

Andrew W. Suhar, Trustee
trustee@suharlaw.com

Gregory F. Locke on behalf of Creditor Farm Credit Mid-America, PCA
glocke@nllaw.net

Sean R H Smith on behalf of Creditor Consumers National Bank
sean@childersandsmith.com

And by regular U.S. mail, postage prepaid, on:

PRA Receivables Management, LLC
Post Office Box 41021
Norfolk, Virginia 23541

/s/ Kevin J. Mitchell
Kevin J. Mitchell